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ABSTRACT

In this statement to the Senate, the Federal Communications Commission (FCC) describes in detail their specific policies relevant to cable television (CATV) regulation under four general areas. The rules for the first of these, television broadcast signal carriage, are outlined in terms of three classifications which would divide all signals: mandatory carriage, minimum service, and additional service. The second general area offers policies concerning access to and use of nonbroadcast cable channels and emphasizes that cable operators should construct systems with a bandwidth which will ensure the availability of nonbroadcast services and the capacity for two-way communication. The third general area discusses technical standards which should be made applicable to CATV systems, requiring that a signal meet standards of minimum technical performance on its arrival at any subscriber's terminal. Finally, concerning the fourth general area of Federal-State relationships, the FCC specifies minimum requirements in the local CATV franchising process. A dissenting statement made by one of the Commissioners is appended, as well as a list of the major television markets and a chart of cable signal carriage in major markets. (SH)

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STATEMENT ON CATV from the FCC to the SENATE COMMITTEE

FCC 71-787
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U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
OFFICE OF EDUCATION
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August 5, 1971

Dear Mr. Chairman:

In accordance with our commitment in my testimony before the Senate Communications Subcommittee on June 15, 1971--reiterated before the House Communications and Power Subcommittee on July 22, 1971--we are submitting this summary of the Commission's proposals for the near-term regulation of cable television.

The Commission has been intensively engaged in the process of reviewing its cable policies since the summer of 1968, when the Supreme Court affirmed the Commission's authority to regulate the industry. In recent months, very nearly full time has been spent trying to find a satisfactory resolution of the difficult problems involved. Ample opportunity has been afforded all interested persons to present their views on the subject. The policies put forward here result from an intensive study of the issues, balancing all the equities, and represent our best judgment on the regulatory course that should be followed.

As set forth in our previous Statements to the Congress, our objective throughout has been to find a way of opening up cable's potential to serve the public without at the same time undermining the foundation of the existing over-the-air broadcast structure. We believe both these "goods" can be achieved and that cable can make

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a significant contribution toward improving the nation's communications system--providing additional diversity of programming, serving as a communications outlet for many who previously have had little or no chance of ownership or of access to the television broadcast system, and creating the potential for a host of new communications services. We believe the policies set out here will achieve these results. But we intend to monitor very closely the growth of the cable television industry and remain prepared to take such further action as may be called for on the basis of experience. We are proposing to break new ground, largely unexplored. As a consequence, we must and will proceed with caution. But further delay, in our view, would disserve the public and deny the nation tangible benefits.

It has been argued that the Commission should delay the next phase of cable's evolution until new copyright legislation is passed. We fully recognize that the continued economic health of those who create program material is crucial to both broadcasting and cable, but we have come to the conclusion that copyright policy is most appropriately left to the Congress and the courts. We therefore strongly urge and hope that the Congress will enact a copyright law--indeed, prompt action seems to us essential. In this connection, we note the present efforts of the principals to reach an agreement and hope that these efforts will be fruitful.

In short, we believe that the two matters--cable regulation and copyright--can be separately considered; that the Commission,

with appropriate review by the Congress, can resolve the regulatory matter; and that this will provide necessary background for Congressional resolution of the copyright issue. It seems to us that our approach promotes and facilitates an informed resolution of cable copyright. The Copyright Office and the Department of Justice have also recommended that this approach be followed. We intend, however, to keep a close watch on how the new regulatory program detailed here works out, and to revisit the copyright question within two years if the problem has not in the meantime been resolved.

In this connection, we note that the matter of program exclusivity, as it is affected by cable carriage, is a matter that has both copyright and regulatory implications. Thus, we intend to study whether present or future considerations call for altering our existing CATV program exclusivity rule (Section 74.1103), which in effect protects only the network programming of network affiliates. We have also in progress a rule making proceeding (Further Notice of Proposed Rule Making in Docket 18179, 27 FCC 2d 13 (1971)) concerning the exclusivity practices of broadcast stations in terms of both time and geography and the impact of these practices on the ability of UHF broadcasters and cable operators to obtain programming.

The specific policies on which agreement has been reached, described in detail below, are the result of a number of interlocking proceedings. The policies are designed to be part of a single package

because each has an impact on all the others, but they may generally be divided into four main areas:

I: television broadcast signal carriage;

II: access to, and use of nonbroadcast cable channels, including minimum channel capacity;

III: technical standards;

IV: appropriate division of regulatory jurisdiction between the federal and state-local levels of government.

We are continuing our work on the final documents. Our time table is such that we will not release these documents until the latter part of the year. Thus, there will be an ample opportunity during the present session of the 92nd Congress for your Subcommittee as well as other committees and the Congress to consider our proposals. During this time we also expect to have available the results of other studies of cable television currently in progress, and will, of course, take them into account. As we now project the time table, therefore, rules will be promulgated by the end of the year, with an effective date of March 1, 1972.

Before turning to a discussion of the policies, we should stress that while these policies will generally govern our disposition of cable matters as they come before us, there are always exceptional situations that call for exceptional actions. The very purpose of an administrative agency is to insure flexibility to act in the public interest in particular situations. In this area of operation under new policies, we will be alert to such special situations as they arise and will tailor our actions accordingly.

I: Television Broadcast Signal Carriage

Our basic objective is to get cable moving so that the public may receive its benefits and to do so without, at the same time, jeopardizing the basic structure of over-the-air television. The fundamental question is the number of signals that cable should be permitted to carry to meet that objective. In attempting to resolve this question, we have agreed on a formula that we are persuaded will achieve the following purposes:

(1) Assure that cable viewers will receive all television signals significantly viewed in their community.

(2) Assure that cable viewers will receive at least a minimum level of television service.

(3) Permit cable carriage of a limited number of distant signals in those markets where we believe this can be done without undue impact on local television stations.

This approach would replace the retransmission consent (Notice of Proposed Rule Making and Notice of Inquiry in Docket 18397, 15 FCC 2d 417 (1968)) and commercial substitution (Second Further Notice of Proposed Rule Making in Docket 18397-A, 24 FCC 2d 580 (1970)) proposals that, we have concluded, simply will not wash. We propose to act in a conservative, pragmatic fashion--in the sense of protecting the present system and adding to it in a significant way, taking a sound and realistic first step, and then evaluating our experience.

We have determined to restrict the carriage of distant signals to a relatively small number and hope thus to serve two purposes: first, to minimize the possibility of adverse impact on the existing broadcast structure and, second, to spur the development of the variety of non-broadcast services that represent the long-term promise of cable. We believe that the overall approach described will allow the integration of cable service into the nation's communications structure without undue disruption.

The television signal carriage rules would divide all signals into three classifications:

(1) Mandatory carriage -- signals that a cable system must carry.

(2) Minimum service -- a minimum number of signals that, taking television market size into account, a cable system may carry.

(3) Additional service -- signals that some systems may carry in addition to those required or permitted in the two above categories.

Before proceeding to a discussion of these classifications, it is necessary to establish the frame of reference in which the rules would operate.

First, the signal carriage rules would be tailored in their application to markets of varying size in accordance with the estimated ability of these markets to withstand additional distant signal competition.

The rules would vary according to whether the cable system is in the top 50 television markets, in markets 51-100, in a market below 100, or not in a television market at all. Appendix A contains an alphabetical list of markets 1-50 and 51-100, and this list would become a permanent part of the rules. The list is derived largely from the American Research Bureau's 1970 prime time households ranking. Earlier, television markets were ranked according to the net weekly circulation of the largest station in each market, but we have now concluded that the prime time households ranking would serve as a more appropriate base. It more nearly measures the strength of each market, rather than just the circulation of the largest station in the market.

Second, it is necessary to delineate the area within each market to which the particular rules will be applicable. We have decided to define that area as a zone of 35 miles radius surrounding a specified reference point in each designated community in the market. A set of reference points fixing the center of the community to which each station is licensed would be included in the rules. For new television stations where reference points have not been specified, the 35 mile zone would be drawn from the central post office in the television station community. The purpose of drawing these zones is not to encompass the entire geographical area that stations in the market serve but rather to carve out the market's central city, suburbs, and nearby communities on which stations generally rely for their principal audience support.

Cable systems in communities partially within a 35 mile zone would be treated as if they were entirely within the zone. There is, however, one exception to this rule: namely, a top 100 market designated community (Appendix A) would be treated as within the zone of another market only if its reference point were within the 35 mile zone of the latter market. In those instances where there is an overlapping of zones to which different carriage rules are applicable, the rules governing the larger market would be followed. Authorized stations with construction permits, but which have not yet commenced broadcasting, would be treated as having a zone, and as operational for purposes of the minimum service rules, for a period of 18 months following the grant of permit.

Mandatory Carriage Signals

Existing rules contain a requirement that, on request, a cable system must carry all Grade B signals covering its community. This requirement has been a part of the Commission's CATV rules from the first, but its practical operation has been complicated as a result of footnote 69 to the Second Report and Order in Dockets 14895 et al., 2 FCC 2d 725, 786 (1966), in which questions were raised as to whether a Grade B signal coming from one major market into another major market should be treated as a distant rather than a local signal. Two changes are to be made in this existing (Grade B) carriage rule.

The first is a requirement that all cable systems must carry the signals of all stations licensed to communities within 35 miles of the cable system's community. This requirement, based on policy considerations similar to those underlying existing carriage rules, is intended to aid stations--generally UHF--whose Grade B contours are limited. (In markets smaller than the top 100, systems would be required to carry all stations within 35 miles and, on request, all Grade B signals from other small markets.)

The second change concerns the overlapping market or footnote 69 situation and takes into account the circumstance that some Grade B signals, while theoretically available over-the-air, are not actually viewed to any significant extent in some parts of their service area. Our earlier proposal in Docket 18397 would have regulated this situation by the use of fixed mileage zones. Under that proposal, a cable system in the top 100 markets (i.e., within the 35 mile zone of a designated top 100 community) could carry the Grade B signal of a station from another top 100 market only if the system were located wholly within 35 miles of the latter market. We have decided to retain this concept but with an important qualification to reflect actual viewing patterns--which is, after all, the heart of the matter. Thus, the rule would require carriage of a signal from one market into another if that signal were found to have significant over-the-air viewing in the cable system's community. Further, its application--which

has been limited to overlaps between major markets--would be extended to overlaps between major and smaller markets.

The standard as to what constitutes "significant viewing" can reasonably be drawn at several points. After studying the various alternatives, we have concluded that an out-of-market network affiliate should be considered to be significantly viewed if it obtains at least a 3% share of the viewing hours in the television homes in the community and has a net weekly circulation in the community of 25% or more.* For independent stations, the test of significant viewing would be a 1% share of viewing hours and a net weekly circulation of at least 5%. The lower figures for independent stations are intended to reflect the smaller audiences that these stations generally attract even in their home markets and, because so many of them are UHF, to afford them a practical boost by virtue of cable carriage. You will note that, in contrast with the standard set forth in our House testimony, the test is now formulated so that both its components (audience share and net weekly circulation) must be met. This more rigorous test gives greater assurance that a signal thus carried is in fact "significantly viewed."

*Share of viewing hours: the total hours all television households viewed the subject station during the week, as a percentage of the total hours these households viewed all stations during the period. Net weekly circulation: the number of television households that viewed the station for 5 minutes or more during the entire week.

We will include in the rules a list of counties in all market zones, showing which out-of-market signals are significantly viewed. This list will be based on ARB's 1971 Television Circulation/Share Study which will available shortly. For those counties that already have 10 percent or more cable penetration, a special ARB tabulation will be used. Because these new tabulations are not yet available, we have had to use most recent available county data in preparing attached Appendix B. This chart illustrates the approximate number of signals that may be carried in designated cities in the top 100 television markets.

Those wishing to make supplemental showings as to significant viewing of additional stations in specific cable communities would also be permitted to do so. Any survey data submitted, however, must be obtained from an independent research organization and include a sufficient sample of off-the-air television households to assure that the results lie at least two standard errors (95 percent confidence limits) above the required viewing level.

Minimum Service

Consistent with other public interest considerations, cable viewers should have at least a minimum number and choice of signals. It would, of course, be desirable to adopt one nationwide standard. However, again to act conservatively with respect to the possible impact on local broadcasting, we have decided to establish minimum

standards of adequate television service that would vary with market size. (Noncommercial educational and non-English language stations are not included in these minimum standards but are discussed separately below.) The minimum service standards would be as follows:

(1) In television markets 1-50:

three full network stations

three independent stations

(2) In markets 51-100:

three full network stations

two independent stations

(3) In smaller television markets (below 100):

three full network stations

one independent station

If after carriage of stations within thirty-five miles, those from the same market, and those meeting the viewing test, minimum service is still not being supplied, distant signals would be permitted to be carried as needed to make up the defined minimum of service.

Additional Service

Cable systems in the top 100 markets would in any case be permitted to carry two signals beyond those whose carriage would be required under the mandatory carriage rules. Distant and out-of-market signals carried to provide minimum service would be counted against these additional signals so that if, for example, two

distant signals were carried to provide minimum service, no additional signals could be carried. Cable systems in smaller markets (below 100) would not be permitted to import network or independent television signals beyond the minimum service level. Noncommercial educational and non-English language stations could also be carried in accordance with the policies outlined below.

The rationale for the foregoing may be simply stated. It would appear that the minimum number of distant signals that might reasonably open the way for cable development is two additional signals not available in the community. We will therefore permit this amount in the larger markets where it is necessary and feasible in terms of impact on broadcasting. In this connection, we stress again our recognitition of the need for ad hoc actions in some situations. Thus, if a system has available for carriage a great number of signals meeting the "significant viewing" test, this may be sufficient to facilitate its growth and may make unnecessary the provision of two additional distant signals. This question can only be resolved on the basis of the facts of each case (e.g., the number of "significantly viewed" signals; the extent, if any, to which those signals exceed the minimum test; and the nature of the market, including the financial position of the stations in the market). Similarly, in the second 50 markets there could be anomalous situations that call for separate treatment--perhaps permitting

only one imported signal, or even none. On the attached chart (Appendix B) we have designated markets that might receive such special treatment.

But generally, we will act in the above described fashion. We have therefore, in the same chart, indicated the effect of our policies in the designated cities of the top 100 markets. We cannot claim that it is mathematically certain in every detail--e.g., some "significantly viewed" signals might be added on an appropriate showing or, in some areas, as a result of the forthcoming ARB cable-controlled sweep, some signals that we have included might not meet the requisite standards. A foreign language or educational signal (or signals) might also be carried, although we believe such carriage would at most have minimal impact on local commercial broadcasters. But even with these qualifications, we believe the chart illustrates the scope and effect of our policies and thus gives a picture of the overall plan in practice.

Carriage Rules for Cable Communities Outside Any Television Market

Cable systems in communities entirely outside the zone of any commercial television station would be permitted to carry television signals without restriction as to number or point of orgin, but must carry all Grade B signals.

Impact

We have carefully considered the question of cable's impact on the continued viability of over-the-air broadcasting. Broadcasters argue that any distant signal cable policy will have a disastrous impact on already shaky UHF stations. On the other hand, we have independent

studies such as those submitted by the Rand Corporation suggesting that UHF will be likelier helped than hurt by cable--because UHF is still handicapped by reception problems, and these problems disappear with carriage on cable. Our own study of the matter has persuaded us that it would be wrong to halt cable development on the basis of conjectures as to its impact on UHF stations. We believe the improvements that cable will make in clearer UHF pictures and wider UHF coverage will at least offset the inroads on UHF audiences made by the limited number of distant signals that our rules would permit to be carried.

As to similar arguments concerning cable's impact on VHF in the smaller markets, it is our judgment--considering such factors as cable's rate of penetration and the growth of broadcast revenues--that the approach we propose will not undermine these stations in their ability to serve the public. Of course, as in any general policy, there may well be exceptional cases--as to a particular market or, more likely, a particular station in that market. In such an event, we would be prepared to take appropriate action.

The viewing patterns in off-the-air and cable homes would soon become apparent and serve as an index of cable's impact on local broadcast service. We intend to obtain early and continuing reports from representative communities, and broadcasters would be free to submit such reports at any time. If these reports and the financial data from operating stations were to show the need for remedial action, we could and would take prompt action. The range of possibilities

here is broad. Effective non-network nonduplication protection might be afforded to affected stations. Or, we might consider halting cable's growth with distant signals at discrete areas within the community--something we have done on occasion in the past. The Commission has the flexibility to handle injury problems in a variety of ways, should such problems in fact arise.

Leapfrogging

We have concluded that it is appropriate to adopt leapfrogging rules regulating which signals may be carried. These rules, while providing cable systems with some flexibility of choice, are also designed to give an expanded market to stations that might otherwise be passed over. In particular, priority would be given to carriage of UHF independent stations in order to improve their competitive position. This policy would be implemented by a rule requiring cable systems in the top 100 markets carrying distant independent television signals to carry, as a first priority, one UHF independent station from within 200 miles. If there is no such UHF station, any VHF station within 200 miles or any UHF station could be carried. The second distant signal in these top 100 markets would be free from restrictions as to point of origin. With respect to systems below the top 100 markets, or the unusual case of a top 100 market system restricted to carriage of only one independent distant signal, such carriage would also be free from restrictions as to point of origin.

Finally, in those few markets where a third independent may be brought in, that signal must be in-state or one within 200 miles; if no such signals are available, there would be no restriction as to point of origin.

The cable system may vary the distant signals to be presented in any fashion it wants, so long as it does not exceed the number to be imported and meets the leapfrogging requirements. In the event an independent signal is blacked out at times because of some nonduplication requirement imposed by the Commission, the system might substitute other distant signal programming in line with the same pattern of priorities. The system might even bring in network-affiliated stations as a part of its "additional two signals"--again, consistent with these priorities and, of course, our nonduplication rules.

Any system within a market zone adding an additional network or noncommercial educational station would be required to carry the closest station of that type or, if the closest station were not from the same state, then the closest instate signal.

Educational Stations

The unregulated importation of distant educational signals might both threaten existing local educational stations and also abort construction of new educational stations. We have, therefore, always provided educational stations and other educational television interests an opportunity to object to importation of distant educational television stations. In our cable deliberations, the filings concerning carriage of distant educational television stations generally argued in favor of simplified procedures--to lighten the burden on

educational broadcasters and to protect their interests in providing local educational programming whenever possible.

We have settled on the following rules: a cable system must carry educational stations within 35 miles and, on request, those that provide a predicted Grade B contour over the cable system's community. The Commission will attempt to settle disputes involving educational stations on the basis of a showing from the objecting party and the response of the cable system involved. While all objections to educational station carriage will be considered, we would not anticipate precluding carriage of tax-supported stations from the same state as the cable system. In order to insure that educational interests have adequate notice of proposed importation, we would retain our requirement that the cable system serve notice of its intention to carry any educational station upon the local school superintendent, all educational stations placing a predicted Grade B contour over the cable system's community, and any local or state educational television authority. Finally, we recognize that educational stations are unlikely to develop in some areas and that cable carriage of distant educational signals is unlikely to have any appreciable impact on commercial broadcast stations. Consequently, we will allow a cable system to carry any number of educational signals, local or distant, in the absence of objection.

Foreign Language Stations

Many communities have an interest in non-English language programming. For the most part, the communities involved are situated near the Canadian or Mexican borders and have populations with a high interest in French or Spanish language programming. This phenomenon is also apparent in other cities with foreign language populations--e.g., New York City, Miami, Los Angeles. In addition, there are citizens and non-citizen residents and visitors to this country not conversant in English who remain essentially without adequate television service. To serve these minorities more effectively, we would permit cable systems to import non-English language programming. In order to encourage the carriage of such programming, we would not count against the quotas discussed previously the distant signal of a non-English language station when carrying these programs.

The non-English language stations are similar to educational stations in that they generally attract select, small audiences, yet serve a salient need. We do not anticipate that this undertaking will be detrimental to local television service because of the small number of viewers such stations generally attract. Again, there could be exceptions to this general proposition. We would, of course, act on any showing of adverse consequences to local television service caused by non-English language signal importation.

We believe that the choice of the station or stations to be carried should be left to the cable operator. He would be free

to choose non-English language stations from those available in the United States or might choose foreign stations not programmed in English. If a non-English language station is available locally, the cable operator would be allowed to import a foreign language station programming in another language without counting against the distant signal quota.

Sports

Sports events stand on a separate footing from other programming presented on commercial television. Public Law 87-331, among other things, exempts professional sports from the anti-trust laws for the purpose of allowing professional football, baseball, basketball, and hockey to enter into pooled or league television agreements with networks, and to black out television broadcasts of home games within the "home territory" of the team concerned. Certainly, cable systems should not be permitted to circumvent the purpose of the law by importing the signal of a station carrying the home game of a professional team if that team has elected to black out the game in its home territory. For example, if the Washington Redskins were playing the New York Giants in Washington, D.C., and the game were blacked out there, a cable system in Washington, D.C. would not be permitted to bring in a New York City station televising the game.

We will follow the spirit and letter of Public Law 87-331, since it represents Congressional policy in this important area. We intend to issue very shortly a notice of proposed rule making directed

to this specific area, in order to ascertain the full thrust and purposes of 87-331 and how best we can formulate a rule to implement these purposes. We will give this proceeding expedited treatment, so that it is concluded before the significant emergence of new systems under these rules. In any event, a system may carry any sporting event if it is televised on a station that must be carried under the mandatory carriage rules. In effect, then, cable systems will be able to carry whatever sports events are carried locally--including those on stations meeting the "significant viewing" test.

Another aspect of concern involving sports programming is the possibility that such programming now presented on broadcast television might be siphoned off to cable. Our current rules (Section 74.1121) prevent cable systems from showing sports events for a separate per program or per channel charge unless these events have not been televised live on a regular basis on broadcast television at no direct charge to viewers during the two years preceding the proposed subscription showing. The Commission has also initiated proposed rule making looking to a ban on the showing of sports events on cable systems on a subscription basis if the events were televised in the community of the system during any one year in the five years preceding the proposed subscription showing.

These rules, of course, do not take into account the circumstance that cable systems, on an interconnected basis, might outbid broadcast networks for the rights to sports events to be

shown on a non-subscription basis on cable systems. In such a case, off-the-air viewers would not be able to receive the event. This situation would be different from that of a cable system providing its subscribers with sports programming that is not currently being broadcast: for example, some cable systems currently carry the blacked out home games of sports teams to their subscribers pursuant to a contract with the team involved. Sports teams apparently enter such agreements when they are playing to capacity crowds and the number of cable subscribers would not hurt the home gate but would provide additional revenue through the sale of cable carriage rights. In the latter instance, cable is performing a valuable public service to its subscribers in presenting sports programming that was previously unavailable to <u>any</u> television viewer.

We are not unmindful of the possibility that a nationwide interconnected cable network, whether achieved by terrestrial or satellite technology, could remove sports programming from conventional broadcast television by offering sports teams more favorable terms than broadcast interests might be willing to pay. This would carry the risk of adverse public consequences by depriving off-the-air viewers of accustomed sports programming. But, in our judgment, this problem--if it arises at all--is far from imminent. The type of interconnection and, most important, the cable penetration levels necessary to permit the formation of a network capable of outbidding broadcast networks are far in the future. We intend to keep a close

watch on this question and to take whatever action is called for within our jurisdiction. We would, of course, welcome Congressional guidance in this area of national concern. It may be that the scope of the issue is so complex--involving not only communications policy, but also antitrust and other considerations--that legislation may be the ultimate answer if, in fact, sports siphoning were found to be an imminent danger, contrary to the public interest.

Procedural Matters

Our experience with the notification requirements of our existing rules has uncovered certain practical difficulties. First, it has not been feasible regularly to review notifications for adequacy and consistency with our signal carriage and other rules. Second, the existing requirement of notification has not effectively given public notice of pending proposals. Finally, the notices have not provided us with sufficient information on a number of matters relevant to the settlement of disputes. Consequently, we would revise our rules to cure these deficiencies as to all cable systems proposing either to start up new operations or to add local or distant stations after the effective date of our new proposals.

Before instituting service, a cable system would be required to file with the Commission a request for certification of compliance. The application would have to contain (1) a copy of the franchise, license, permit, or certificate granted by the appropriate governmental source to construct and to operate a cable system in the community;

(2) a list of the broadcast stations intended to be carried (including any survey made of signals meeting the significant viewing test); (3) an affidavit showing service on all television broadcast stations placing a predicted Grade B contour over the community of the system, on the superintendent of schools in the community in which the system will operate, and any local or state educational television authorities; and (4) a completed copy of FCC Form 325 (Annual Report of CATV Systems). Form 325 would contain information concerning the cable system's operation--location, ownership, number of subscribers, signals carried, channel capacity, and extent of program originations. When a cable system proposed to add local or distant signals to an existing system, the franchise and Form 325 would not have to be refiled but the other procedures related above would be required. The Commission would issue public notices of all petitions for authorization accepted for filing.

Interested persons would be permitted to object to proposed cable service within 30 days after the Commission gives public notice. Whether or not an objection is filed, a cable system would not be permitted to commence new service without receipt of a certificate of compliance from the Commission. Absent special situations or showings, petitions consistent with our rules would receive prompt certification. The rules are meant to operate on a "go, no-go" basis. For example, the carriage rules reflect our determination of what is, at this time, in the public interest vis-a-vis cable carriage of local and distant signals.

Grandfathering

Cable systems already in operation on the effective date of the rules would be permitted to continue operation and to provide the existing lineup of signals without regard to the new requirements of signal carriage if that service had been previously grandfathered in the Second Report and Order in Dockets 14895 et al., supra, or if the service were commenced in compliance with the rules after December 20, 1968 and was then consistent with the rules proposed in Docket 18397. For those systems now limited to discrete areas in their communities by Commission order, any expansion beyond those areas would have to be consistent with the new rules.

II. Non-Broadcast Channels (Access)

In our July 1, 1970 Notice of Proposed Rule Making in Docket 18397-A, we stated:

> The structure and operation of our system of radio and television broadcasting affects, among other things, the sense of "community" of those within the signal area of the station involved. Recently governmental programs have been directed toward increasing citizen involvement in community affairs. Cable television has the potential to be a vehicle for much needed community expression.

Confronted with the need for more channels available for community expression on the one hand and, on the other, with the promised emergence of cable television's capacity to provide an abundance of such channels, we stated in our July 1, 1970 Notice the principle that the Commission". . . must make an effort to ensure the development of sufficient channel availability on all new CATV systems to serve specific recognized functions." We will seek to serve these purposes through a number of interrelated requirements spelled out in the following discussion.

We will tailor our actions to take into account the public interest considerations stemming from possible impact of cable on broadcast services. We recognize that in any matter involving future projections, there are necessarily some risks. As we have also stated, what makes those risks so clearly worth taking is the chance of obtaining great benefits to the public from cable's new services. It follows that

along with making distant or overlapping signals available for the first time in specified markets, we should act to require a bandwidth that will ensure the availability of these new services. Otherwise, some cable operators might construct systems adequate only to the carriage of broadcast signals, or might long postpone the availability of non-broadcast channels. We believe this would be a most unwise decision, since the use of non-broadcast bandwidth is of high public promise and can be profitable to the cable owner. Indeed, it may be the critical factor making for cable's success. The public interest, as well as the cable industry's economic interest, may well be found in reducing subscriber fees and relying proportionately more for revenue on the income from channel leasing. In sum, we emphasize that the cable operator cannot accept the distant or overlapping signals that will be made available without also accepting the obligation to provide for substantial non-broadcast bandwidth. The two are integrally linked in the public interest judgment we have made.

Channel Capacity (Bandwidth)

We envision a future for cable in which the principal services, channel uses, and potential sources of income will be other than over-the-air signals. We note that 40, 50, and 60 channel systems are currently being installed. The cost difference between installing 12 and 20 channel capacity would not appear to be substantial. We urge cable operators to consider that future demand may significantly exceed current projections, and we put them on notice that it is our intention to insist on the expansion of cable systems to accommodate all reasonable demand.

At the same time, we do not want to impose unreasonable economic burdens on cable operators. Accordingly, we will not immediately require a minimum channel capacity in any except the top 100 markets. In those markets we believe a 20 channel capacity (actual or potential) is the minimum consistent with the public interest.

We will also adopt a rule that for each broadcast signal carried, cable systems must provide equivalent bandwidth for non-broadcast uses. This seems a reasonable way to obtain the necessary minimum channel capacity and yet gear it to particular community needs. Finally, the "N + 1" availability concept, discussed below, is also pertinent to the question of channel capacity.

Public Access, Educational, and Government Channels

Broadcast signals are being used as a crucial component in the establishment of cable systems, and it therefore seems appropriate that certain basic goals of the Communications Act be furthered by cable's advent--the opening up of new outlets for local expression, the promotion of added diversity in television programming, the advancement of educational and instructional television, and the increased information services of local governments. Accordingly, we will require that there be one free, dedicated, non-commercial, public access channel available at all times on a non-discriminatory basis. In addition, we will require that one channel be set aside for educational use and one channel for state and local government use on a developmental basis and that, upon completion of the basic trunk line, for the first five years thereafter these two channels will be made available free. After this developmental phase--designed to encourage sophisticated educational and governmental

innovation in the use of local television--we will then be in a more informed position to determine, in consultation with state and local authorities, whether to expand or curtail the free use of channels for such purposes or, indeed, whether we should continue the developmental period for a further time. We do not want the free uses described above to constitute an unreasonable economic burden on cable system operators and subscribers. Therefore, a system operator will be obliged to provide only use of the cable channel on a free basis; production costs (aside from brief live studio presentations not exceeding five minutes in duration) may be charged to users.

Leased Channels

After cable systems have satisfied the priority of providing one free public access channel as well as the free developmental channels for education and government, they may make available for leased uses the remainder of the required bandwidth and any other available bandwidth (e.g., if a channel carrying broadcast programming is blacked out because of our non-duplication requirement or is otherwise not in use, that channel also may be used for leased programming). Indeed, to the extent that the public access, educational, and governmental channels are not being used, these channels may also be used for leased operation. But such operations may only be undertaken with the express understanding that they are subject to immediate displacement if there is a demand to use the channel for the dedicated purpose.

Expansion of Capacity

Our basic goal is to encourage experimentation that will lead to constantly expanding channel capacity. Cable systems will therefore

be required to make an additional channel available for use as the demand arises.

There are many ways of administering this general goal. Experience will be valuable to users, systems, and the Commission alike. Initially, however, we propose to use the following factor to determine when a new channel must become operational: Whenever all operational channels are in consistent use during 80% of the weekdays (Monday-Friday), for 80% of the time during any three-hour period for six weeks running. The system will then have six months in which to make a new channel available. Such an N + 1 availability should encourage use of the channels, with the knowledge that channel space will always be available, and also encourage the cable operator continually to expand and update his system. We contemplate that at least one of the leased channels will give priority to part-time users; the remaining leased channel capacity may be used by full-time lessees.

As mentioned above, we are aware of the risks inherent in the N + 1 formula. A cable owner has an obvious economic incentive to devote his bandwidth to profitable channel leasing activities, and might thus be motivated to restrict use of the access channels to avoid triggering the N + 1 availability. A whole variety of techniques might, quite obviously, be employed. While it would not appear to constitute any problem in the immediate future, we intend to institute now a proceeding to assure that the N + 1 concept is not frustrated at some later date through rate manipulation; this proceeding will deal with appropriate future regulatory policies as to the rates charged for these leased channel operations for interstate services. We are also aware that the formula may be too rigorous and impose economic burdens on operators.

The six-month period allowed for activation of new channels, for example, contemplates the relatively modest effort needed to convert existing potential capacity into actual capacity. Obviously, if it were necessary to rebuild or add extensive new plant, this could not reasonably be expected within any six-month period. The latter consideration again points up the necessity of building now with a potential that takes the future into account. In the new proceeding referred to above, we will also explore this aspect of possible rebuilding or extensive new construction that might be required under our rules. In sum, we adopt the 80% figure only as a general formula. Inasmuch as this area of regulation is new, we will reexamine the N + 1 concept at an early time if unanticipated problems develop.

Two-Way Capacity

After studying the comments received and our own engineering estimates, we have decided to require that there be built into cable systems the capacity for two-way communication. This is apparently now feasible at a not inordinate additional cost, and its availability is essential for many of cable's public services. Such two-way communication, even if rudimentary in nature, can be useful in a host of ways -- for surveys, marketing services, burglar alarm devices, educational feed-back, to name a few. Of course, viewers should also have a capability enabling them to choose whether or not the feed-back is activated.

Regulations Applicable to Public Access, Educational, Government, and Leased Channels Presenting Non-Broadcast Programming

Having provided for these access channels, we turn to the question of the regulation of the public access and other channels presenting non-broadcast programming. First, we believe that such regulation

is properly the concern of this Commission. This is so not just because we have required the creation of such channels and specified their initial or continuing priority. As stated, the channels are designed to fulfill Communications Act purposes and are integrally bound up with the broadcast signals being carried over the system. It is by no means clear that the viewing public will be able to distinguish between a broadcast program and an access program; rather, the subscriber will simply flick across the dial from broadcast channels to public access or leased channel programming, much as he now selects television fare. Further, the leased channels will undoubtedly involve interconnected programming, via satellite or interstate terrestrial facilities, matters that are within the Commission's jurisdiction. Similarly, it is this Commission that must make the decisions as to conditions to be imposed on the operation of pay channels, and we have already taken steps in that direction. (See Section 74.1121.)

Federal regulation is thus clearly called for. The issue is whether also to permit local regulation of these channels, if not inconsistent with Federal purposes. We think that in this area this dual form of regulation would be confusing and impracticable.

Further, we do not believe that the purposes we seek to advance would be served by detailed regulations at this time; rather as set forth more fully below, we think it is important to allow a period of considerable experimentation. Thus, we believe that, except for the government channel, local regulation of access channels carrying programming is precluded, at least at this time. We stress that if experience and considerations

brought forth in the further proceeding indicate the need or desirability therefor, we can then delineate an appropriate local role.

Similarly, aside from channels for government uses, we do not believe that local entities should be permitted to require that other channels be assigned for particular uses. As stated above, this in our view is peculiarly a matter of federal concern. We stress again that we are entering into an experimental or developmental period. Thus, where the cable operator and the franchising authority seek to experiment by providing additional channel capacity for such purposes as public access, educational, and governmental--on a free basis or at reduced charges--we will entertain petitions and consider the appropriateness of authorizing such experiments, to gain further data and insight and to guide future courses of action. For the same reasons, we will permit existing systems to continue operating under more "generous" specifications than those described in this section.

The question of what regulations we should impose at this time is a most difficult one. We simply do not know how these services will evolve. The comments received, while helpful and well-intentioned, understandably could not now supply definitive standards. We believe that our best course is to facilitate use of these channels on a first-come, first-served nondiscriminatory basis with only the most minimal regulations, in order to obtain experience, and on the basis of that experience and the comments received in a new proceeding, to lay down more specific regulations. We stress, therefore, that the regulatory pattern here described is interim in nature--that we may make minor or indeed major changes as we

gain the necessary insight.

Turning to our interim rules, we are guided by two main policy considerations: (1) to allow maximum experimentation and (2) to prevent, particularly during this critical early period and probably at all times, one entity sitting astride all this channel capacity and deciding what programming should or should not enter subscriber homes.

We will authorize the commencement of cable service and, with that commencement, require the offering of these services. We will further require that, in accordance with our regulations, the cable system promulgate rules to apply to these services, and will require that the rules be kept on public file at the system's headquarters and with the Commission. What matters during this experimental period is not form but substance, and we will lay down the substantive guides that we believe are appropriate at this time. We believe that we have full discretion to act in this fashion. See Philadelphia Television Broadcasting Co. v. F.C.C., 123 U.S. App. D.C. 298, 359 F. 2d 282 (1966).

With respect to the public access channel, the rules to be promulgated by the system must specify nondiscriminatory access on a first-come, first-served basis during this interim period. It also follows that, during this interim period, the cable operator must not censor or exercise program content control of any kind over the material presented on the public access channel. However, his rules shall proscribe the presentation of any advertising material (including political advertising spots), of lotteries, and, in terms identical to 18 U.S.C. §§ 1464, of

obscene or indecent matter. The regulations shall also specify that persons or groups seeking access be identified, and their addresses obtained; these are reasonable requirements, and this information should be publicly available.

We do not envision any other proscriptions during this experimental period. We recognize that open access carries with it certain risks. But some amount of risk is inherent in a democracy committed to fostering "uninhibited, robust, and wide-open" debate on public issues. (New York Times Co. v. Sullivan, 376 U.S. 254, 270 (1964)). In any event, further regulation in this sensitive area should await experience and the outcome of the proceeding we expect to initiate. For example, we intend to explore whether it would be feasible or desirable to provide subscribers a locked switch to cut off the public access or leased channels, should parents wish to control their children's viewing.

In short, we recognize that the public access channel requirements may result in many problems for the cable operator, especially during the break-in period. Effective operational procedures can evolve only from trial and error, and it is probable that different systems will have diverse problems not presently capable of being solved by uniform regulation. We note, for example, the need to decide how applications for access time shall be made, who must make them, what overall time limitations might be desirable, how copyrighted material will be protected, how production facilities will be provided, how the public can get some advance notice of what is to be presented, and so on. All these questions will probably be answeredby cable systems in a number of

different ways. Again, we will require that the rules adopted by cable systems in these respects be filed with us and made available to the public. But experimentation appears to be the best way to determine what will be workable for the long run. Only with experience will we be able to tell what further general rules, if any, are called for.

The cable operator, except for channels programmed by the system itself, similarly must not censor or exercise program content control of any kind over the material presented on the leased channels. Specifically, his rules shall provide for nondiscriminatory access on a first-come, first-served basis with the appropriate rate schedule specified. Again, he shall obtain the names and addresses of the persons or groups seeking access, and shall adopt rules proscribing the presentation of obscene or indecent matter (in the precise terms of 18 U.S.C. § 1464), lotteries, and advertising material not containing the necessary commercial identification. Finally, in contrast with existing cablecasting rules (Section 74.1117), we will not require commercials only at natural breaks on these channels. It is our expectation that there will be experimentation in this respect, with some channels used entirely for advertising, some following the pattern of present commercial broadcasts, and others that of Section 74.1117. We do not wish to inhibit in any way the presentation of new materials over these channels during this critical introductory period. Again, we leave to the rule making proceeding such questions as dealing with false and misleading advertising, some possible modified fairness or personal attack requirements, and the like.

Liability

Many cable operators are concerned about potential civil and criminal liability resulting from use of these public access and leased

channels. There is little if any possibility of a criminal suit in a situation where the system has no right of control and thus no specific intent to violate the law. See, e.g., Baird v. Arizona State Bar, 401 U.S. 1 (1971); In Re Stolar, 401 U.S. 23 (1971); Law Students Civil Rights Research Council v. Wadmond, 401 U.S. 154 (1971); Yates v. United States, 354 U.S. 298 (1957).

The cable operator's real fears seem, in fact, to center mainly around potential libel suits. The possible number and scope of such actions is, however, severely limited. In Rosenbloom v. Metromedia, Inc., 39 U.S.L.W. 4694 (1971), the Court extended the "actual malice" rule of New York Times Co. v Sullivan, supra., to cover any situation where "the utterance involved concerns a matter of public or general interest." Since most users will presumably air opinions on matters that are of at least as much "public or general interest" as in the Rosenbloom case, it seems likely that their speech would come within the "actual malice" rule. No such malice could be imputed to a cable operator who had no control over the given program's content.

In the unlikely event that some material presented on these non-broadcast channels were to fall outside the broad scope of the Court's recent decisions such as Rosenbloom, this would not necessarily mean that the system is liable. (Of course, the programmer would remain fully liable.) We have adopted the no-censorship requirement in order to promote "robust, wide-open debate" and for the policy reasons set out above; these are, we believe, valid regulations having "the force of law." While the matter is of course one for resolution by the courts

(as also would be the due process issues raised), we suggest that state law imposing liability on a system that has no control over these channels would frustrate federal purposes. In any event, if any problem should develop in this respect, it is readily remedied by Congress and, in this connection, we would welcome clarifying legislation. Cf. Farmers Educational and Cooperative Union v. WDAY, 360 U.S. 525 (1959).

Production Facilities

It is obvious that our goal of creating a low-cost, nondiscriminatory means of channel access cannot be attained unless members of the public have available some reasonable production facilities. We expect that many cable systems will have facilities with which to originate programming, and such facilities should also be available to produce program material for public access. Hopefully, colleges and universities, high schools, recreation departments, churches, unions, and other community sources will have low-cost video-taping equipment available to the public. Whatever sources are available, however, we will require that the cable operator maintain at least minimal production facilities for public use within the franchise area.

In this experimental stage, when cablecasting material may well come from diverse sources, it could be self-defeating to require a cable operator to carry this material and at the same time to meet stringent technical standards. We note specifically that the use of half-inch video tape is a growing and hopeful indication that low-cost video tape recording equipment can and will be made available to the public. While such equipment does not now meet our technical standards for broadcasting, the

prospects for its improvement and refinement are excellent. Further, since it provides an inexpensive means of program production, we see no reason why its development should not be encouraged for use on cable channels.

Many elaborate suggestions have been made for comprehensive community control plans such as neighborhood origination centers, mobile communications vehicles, and neighborhood councils to oversee access channels. Here again the Commission will encourage experimentation rather than trying to enforce a more formal structure at this time.

Applicability

These access rules will be applicable to all new systems that become operational in the top 100 markets (as defined in Section I above). Currently operating systems in the top 100 markets would have five years to comply with this section. Existing systems in markets below the top 100 would be required to meet these access rules when and as the system is substantially rebuilt.

Our reasons for focusing on the top 100 markets may be briefly stated. We have delineated these markets (within 35 mile zones) as the recipients of special benefits in order to stimulate cable growth. But, correspondingly, that growth should be accompanied by these access requirements or the public will not fully receive the benefits we seek. To the extent that this may pose some problems for systems operating in relatively small communities in these markets, such systems are free to meet their obligations through joint building and related programs with cable operators in the larger core areas.

Finally, if these requirements should impose an undue burden on some isolated system, that is a matter that can be dealt with in a waiver request, with an appropriate detailed showing.

III. Technical Standards

Our objective in determining for the first time what technical standards should be made applicable to cable television systems has been to devise rules that assure the subscriber at least a minimum standard of reception quality, while at the same time permitting the continuation of technical experimentation. Thus, unlike our regulatory approach in broadcasting, we do not specify standards prescribing either the methods for measuring transmission performance or specifying the types of equipment that cable systems must use. Instead, the thrust of our rules is to require that a signal must meet certain standards of minimum technical performance on its arrival at any subscriber's terminal.

At this time our requirements would apply only to the carriage of standard television signals. We expect, however, that there will be need for technical standards--in some measure possibly different--for carriage of cable originated programs, return (two-way) communication, and various miscellaneous cable services as they develop. While appropriate standards for these services and other technical aspects of cable are under study, it will be necessary to call on the various technical industries for advice and consultation, and we plan soon to announce the formation of a task force of experts to advise us in designated areas. We intend to continue the rule making process and to request comments on such matters as limitations on permissible cross-modulation, ghosting, measurement techniques, carriage of aural broadcast signals, and a

requirement for synchronous delivery of VHF stations.

In anticipation of the various uses of cable television--some of which are already beginning to be realized--we are defining four classes of cable television channels. Class I channels will be those segments of bandwidth used for carriage of standard television signals. It is only to Class I channels that our technical standards would apply initially. Class II will be used for cable originated programming, including public and educational access services. Class III channels will be for non-television miscellaneous services and printed message material. And Class IV channels will be those used for return communication. Our purpose in defining four classes of channels is to recognize that the varied services expected to be provided by a cable system will use different amounts of bandwidth or require different technical parameters, some "channels" requiring a full 6 MHz of bandwidth, others more or less. As suggested above, different technical standards may well be needed for different cable services, and we have therefore fixed on these separate channel definitions to facilitate whatever standards we adopt.

At this time our technical standards will include specifications for frequency boundaries, visual carrier frequency levels, aural carrier frequency levels, channel frequency response, terminal isolation, and system radiation. We will provide, however, that systems of unusual design that cannot comply with one or more of the technical specifications will be permitted to operate on an adequate showing that the public

interest is benefited thereby. The Commission will reserve the right in such instances to prescribe special technical standards to ensure that subscribers will be provided with good service quality.

Responsibility for designing, installing, maintaining, and operating cable systems to ensure that our standards are met will be placed on system operators. We will require that every cable system operator conduct complete performance tests of his system at least once a year and keep the results of such tests on public file for five years. The performance tests will compel measurements made at no less than three widely separated points on the system, at least one of which would be representative of terminals most distant from the system input. We will, of course, require that the operator record a description of the instruments and procedures used in making such measurements and a statement of the qualifications of the person performing the tests.

We will also require that the operator of each system maintain a current listing of channels delivered to subscribers and the station or stations whose signals are delivered on each Class I cable channel.

Each system operator will have to be prepared at any time to show, on reasonable request from the Commission, that his system does in fact comply with the technical standards. Additionally, it should be noted that successful completion of the performance tests will not relieve the system operator of the obligation to meet the technical standards at each subscriber terminal. The implementation of these rules would generally eliminate the degradation of local broadcast signals. We will also reserve the right to require additional tests at

specific terminals.

We consider it important that the cable industry move forward as quickly as possible with a program to obtain compliance with the technical standards we plan to adopt. Thus, we will require that new systems and those that may now be in the planning or construction phase and have not delivered programs to subscribers on the effective date of these rules will have to comply with the technical standards within one year. For existing systems, however, we envision a five-year compliance period.

IV: Federal-State/Local Relationships

In the Notice of Proposed Rule Making in Docket No. 18892, 25 FCC 2d 50 (1970), we stated that we favored federal regulation of some aspects of cable television and local--i.e., state or municipal--regulation of others under a federal prescription of standards. The comments generally agreed that certain areas of cable regulation can best be dealt with at the federal level because states and municipalities lack the necessary resources for effective regulation. We are also persuaded that, absent affirmative Commission action, state and local bodies would be free in other areas of regulation to style cable growth in a manner at odds with the Commission's nationwide regulatory plan. Accordingly, it is our view that federal regulation is clearly indicated in such areas as signals carried, technical standards, program origination, cross-ownership of cable and other media, and equal employment opportunities. And federal regulation of matters directly affecting programs and signals carried is, of course, entirely consistent with United States v. Southwestern Cable Co., 392 U.S. 157 (1968).

The comments generally advanced persuasive arguments against federal licensing. We agree with the contention that federal licensing at this time would place an unmanageable administrative burden on the Commission. Accordingly, we will not now take that step. Furthermore, local governments are markedly involved, since cable must make use of streets and alleys, and local authorities are able to bring to bear a special expertness on such matters, for example, as how best to parcel

a large urban area into cable districts. Local authorities are also in a more effective position to follow up on service complaints.

Accordingly, we will leave a number of areas to local regulation, but will take steps to insure efficient nationwide communications service with adequate facilities at reasonable charges. And we will expect to accomplish this by specifying minimum requirements in the local franchising process.

Basic Qualifications--Choice of Franchisee and Service Area

We will require that the cable system, before commencing operation with broadcast signals, file a copy of its franchise with us and a certificate showing that the franchising authority in a public proceeding has considered the system operator's legal and financial qualifications, and the adequacy and feasibility of his construction arrangements.* We are authorizing the use of broadcast signals in order to obtain new benefits for the public, and no such benefits will be forthcoming if the cable applicant is legally, financially, or technically unable to operate. The character of the cable applicant

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* While we are not at this time instituting rules concerning the franchise selection process, we do strongly suggest that the local franchising authority require a public invitation to all who might want to compete for a local franchise, that all bids be placed on public file and reasonable public notice be given, that a public hearing be held to afford all interested persons an opportunity to testify on the merits or demerits of the various applicants, and finally that the franchising authority release a public report setting forth the basis for its action.

takes on added significance because he may well be engaged in program origination. Nor does this consideration rest on the validity of the Commission's First Report and Order in Docket 18397--a matter now before the Courts--since in any event the cable system is free to originate, and may well do so in order to promote its growth. Some governmental body must ensure character consistent with the public interest and, in the circumstances, that body will be the local entity authorized to do so by state law.

While local authorities must examine the above aspects of eligibility and certain others to be discussed, we do not believe it is appropriate to set out comparative criteria to govern the selection process. This is a new realm and we think it best to allow for a variety of experiments and approaches. We do intend to collect and publish data on the various methods used, so that we may review the matter and also be of assistance to the many franchising entities involved.

The local entity must also make the determination whether to divide up the city, county, or state, and, if so, how. We would only stress the obvious--that it must make provision that the franchisee extend service equitably to all parts of the franchise area. A plan that would bring cable only to the more affluent parts of a city, ignoring the poorer areas even though dense in population, simply could not stand. No broadcast signals would be made available in such circumstances. We emphasize however that, barring such inequity, we do not

intend to supervise the manner of dividing up political subdivisions. There are obviously a variety of reasonable ways to proceed here, and the matter is one uniquely for the judgment of the local entity.

Construction Timetable--Franchise Duration

We will require that the local franchising authority set reasonable deadlines for construction and operation of systems to ensure that franchises do not lie fallow or become the object of trafficking. Specifically, we will provide that the franchise require that the cable system have an operable head-end within one year after this Commission grants a certificate of compliance, and that thereafter it meet substantial percentage figures for extension of energized trunk cable, such figures to be set by the local authority. This represents neither an innovation nor a hardship for local franchising authorities, since many already impose similar requirements. We believe, in general, that the cable franchisee should be required to extend energized trunk cable to 20 percent of the franchise area per year, for its first five years of operation, with the extension to begin within one year after the Commission issues its certificate of compliance. But we will not lay this down as an inflexible rule, recognizing that particular local circumstances may vary.

We will require the franchising authority to place a reasonable limit on the duration of the franchise, and its renewal. This obviously requires striking a balance between a sufficient time scale to attract venture capital and, in effect, a franchise in perpetuity. The latter

is unsatisfactory to state and local regulatory authorities and would be an invitation to obsolescence, because of cable's explosive technological development. We think that, generally speaking, a franchise should not exceed 15 years, with a reasonable renewal period. The economics of cable operation would appear to allow for amortization of initial investment over a 15-year period, and efficient operators can reasonably expect their franchises to be renewed. In short, while we will set out the 15-year period as a general guide, we recognize that the local franchising authority may decide to vary the period based on particular circumstances. For example, an applicant proposing to wire inner-city areas free or at reduced rates might be given a longer franchise.

Subscriber Rates--Service Standards

We will require that the franchising or other governmental authority specify or approve initial subscriber rates for services furnished by the franchisee; that a program be instituted for the review and, as necessary, adjustment of such rates; and that reasonable advance notice be given to the public of all proposed rate changes with the right of the affected members of the public to be heard. The appropriate standard here is the maintenance of rates that are fair to the system and to the subscribing public--a matter that once again will turn on the facts of each particular case and, in the next years, the accumulated experience of other communities with cable. Finally, while we will specify general technical standards, the franchising

authority must have a program to ensure quality of service and to review service complaints. Once again our provisions will be designed to impose a general standard of franchisee responsibility while leaving specific substantive decisions to local authorities.

Franchise Fees

We proposed a two percent limitation on local franchise fees in our Notice of Proposed Rule Making in Docket 18892, supra. While we have decided against adoption of this specific limitation, we believe that some provision to ensure reasonableness in this respect is necessary for a variety of reasons.

First, many local authorities have--understandably but unfortunately--exacted high franchise fees for revenue-raising rather than regulatory purposes. Though most fees seem to run about five percent, some have been known to run as high as 36 percent. The ultimate effect of any revenue-raising fee is to levy an indirect and regressive tax on cable subscribers, and our further concern is that the combination of high local franchise fees and cable's other financial responsibilities may so burden the industry that it will be unable to carry out its part of an integrated national communications program.

We must also take into account the likelihood that cable systems may, in the near future, be subject to Congressionally-imposed copyright fees. We are, of course, aware that cable has in many places achieved public acceptance, but there are limits on the number of different directions in which cable revenues can be stretched. As we indicated

in our above Notice, our goal is to strike a balance that permits the achievement of federal goals and at the same time allows adequate revenues for the maintenance of an appropriate local regulatory program.

This Commission imposes a fee to finance its own cable regulatory program. The regulatory program to be carried out by the local entity is different in scope and indeed may differ from jurisdiction to jurisdiction. While we think that generally franchise fees should run between three and five percent as a maximum, we believe it more appropriate to specify a general standard to be implemented within the specific local context. Thus, we will simply require that the franchise fee must be a reasonable one that does not interfere with the effectuation of federal goals. But when the fee is in excess of three percent (including all forms of consideration, such as initial lump sum payments), the franchising authority shall submit a showing of the appropriateness of the fee specified, particularly in light of the planned local regulatory program. The franchisee shall also set forth a showing that the fee specified does not interfere with achievement of his responsibilities as defined in relevant Commission rules and documents. As we gain more experience in this area, we will doubtless take further action and may well issue a further notice of inquiry or proposed rule making when our cable rules go into effect.

Grandfathering

We will apply generous grandfathering provisions. An existing cable system will be required to certify that its franchise includes

the above provisions within five years of adoption of our rules or upon renewal of its franchise, whichever occurs first. This delay should relieve both cable systems and local authorities of whatever minor dislocations the new rules might cause.

Advisory Committee

The provisions of this Section of the document represent the bare minimum needed to get cable under way, and some matters are best left to ad hoc consideration. We believe that a special committee composed of Commission representatives, and representatives of state and municipal entities, the cable industry, and of public interest groups would be most helpful, and we propose in the near future to create such a committee. This committee, through its Commission representative, can then report to and advise the full Commission as to the next appropriate steps in this important area. For, as we gain experience and data, we must be alert to take such further action as will promote the public interest. We intend also to make available to local entities the information garnered through proceedings of the Commission and the proposed committee, so that such local entities may be better informed as to pertinent approaches and data in this dynamic field.

V: Further Questions

Despite the length of this document, you will appreciate that it does not contain as full a treatment of every aspect of cable development as will be included in our Final Report and Order. But it does set out the essence of our proposals, and our rules will follow directly from them.

We also want to make clear that there is much unfinished business in the cable field. For example, there is the outstanding proceeding dealing with cross and multiple ownership problems. Clearly, this federal matter must be resolved without undue delay so that threshold eligibility questions are laid to rest. To cite just one instance, strong arguments have been advanced that local ETV station operators should not be barred from any and all ownership participation in cable systems in their communities; and, as a matter of equity, these arguments should be dealt with before franchises are awarded in the markets that we are now proposing to open for cable penetration. We will therefore split out matters such as this for resolution before our new rules become effective.

This document itself refers to several new proceedings to deal further with a number of difficult problems. In the access area, for example, there will be a proceeding to consider the shape of new regulations (if any) on the access and leased channels; and this will reach to the important issue of preventing abuses, particularly with respect to rates, that might thwart the fullest possible provision and use of such channels.

In the federal-state/local area, there will be a proceeding to consider various aspects of matters treated here only in a preliminary way. This will include the difficult issue of delineating which services are interstate in nature and which intrastate and, even if the former, whether federal regulation should be exclusive.

Possible problems concerning carriage of radio station signals have not been treated here although some of the same issues raised by carriage of television signals may also be raised by radio signal carriage. Further inquiry and proceedings in this area will be required.

We have also been asked by the cable television industry to take action to encourage the manufacture and sale of television receivers specifically designed for use with high capacity cable systems, eliminating the need for set-top converters, improving reception of adjacent channels, and reducing direct pick-up interference. Inquiry in this area is clearly indicated and it will be an item on the agenda of the industry task force we propose to establish to assist us in formulating further technical standards.

Additionally, it may become necessary in the future to adopt a uniform set of cable accounting standards to aid in the implementation of effective regulatory programs. We will, therefore, issue a Notice of Proposed Rule Making to explore the need for and possible form of such standards. At this comparatively early point, however, the NCTA's Accounting Manual for Cable Television can serve as a useful focal point for discussion of this issue.

Our continued attention will also be required to ascertain whether existing rules to prevent the siphoning of programming from over-the-air broadcasting are effective or whether further regulations are indicated. We have referred to this at greater length in our discussion of sports events under "Television Broadcast Signal Carriage," above. We intend to keep a close watch on this whole question and will be receptive, as we indicated earlier, to Congressional guidance in this vital area of national concern.

Underlying all these issues is the fundamental fact that cable is not static but rather is an emerging technology, with a host of possible services still to come. It follows that our regulatory pattern must evolve as cable evolves--and no one can say, at this stage, what the precise direction will be. Many of those who testified at our hearings urged that cable's tendency will and indeed should be more and more toward a common carrier concept. And that, of course, would have profound regulatory consequences for which the Commission and the Congress must be prepared.

This document signifies the amount and the substance of regulation that we believe is essential now for the orderly development of the cable industry. But its ability to survive and prosper will ultimately, in our view, be tested in the market place. We have, in short, proposed first steps--long overdue. We welcome your participation in this most important matter and, in effect, a continuing partnership. Our objective and yours is surely the same--to bring to

the American people an effective and a diverse communications system, in accordance with the mandate of the Communications Act of 1934.

This letter was adopted by the Commission on August 3, 1971, Commissioners Burch (Chairman), Bartley, R. E. Lee, Johnson, H. R. Lee, and Houser voting for adoption of the document, and Commissioner Wells dissenting (separate statement attached hereto).

BY DIRECTION OF THE COMMISSION

Dean Burch
Chairman

Attachments

Dissenting Statement of Commissioner Robert Wells

I would have preferred to concur in the action of the majority in the adoption of this document for we all have the same goals. Our objective is to provide for the further development of cable television systems, done in such a manner that we do not disrupt or diminish the service now being brought to the public by the broadcasting industry. Since we all wanted to achieve this goal, most of our differences are matters of degree.

However a segment of the action taken by the majority represents another example of over regulation at the Federal level. It was done without local franchising authorities having an adequate opportunity to demonstrate their ability or inability in this complex field.

We do not have before us a case of federal funding where some federal controls are inevitable. We have preempted jurisdiction where for various reasons the basic requirements for these systems vary from one franchise area to another. Rather gratuitously the majority has assumed that all expertise in this matter is at the Federal Communications Commission. It is true that the Commission has held many hours of hearings and discussions on cable television and should be more informed than most local franchising authorities in many aspects. This does not mean that the Commission has acquired

the necessary skills required to deal with local problems which reasonably can be expected to arise in such a complex field. The rationale for assuming our expertise in local situations, which is thought to be so great so as to preclude even giving local authorities any control over what is needed in the way of local access channels, escapes me.

While I would favor a nationwide interconnected cable television network,at this time I oppose allowing signals to be imported from any distance as is proposed in the document before us. The possibility of adverse impact by such signals upon existing broadcast services is of grave concern. I would have been more cautious now, hoping that experience would permit us to come to the point where all restrictions might be abolished.

Stating my objections briefly, I believe we could have given cable systems less in distant signal importation and still stimulated its growth. On the other hand, I would not have the Commission burdening cable operators with what could prove to be excessive capital outlays because of our proposals for non-broadcast channel capacity. I am sure that in some cases our channel capacity requirements will prove to be quite reasonable. The local franchising authorities are in the best position to make that determination and I would leave the matter of access channels entirely to them. Neither would I make any reference to franchise fees or subscriber rates for these again should be left to the judgment of the local

authority, and the Commission should not preempt this jurisdiction.

Although I realize any distinction between markets by size is purely arbitrary, I would have preferred a figure other than markets 1 - 50. For the purpose of this subject, the placing of Wilkes-Barre, Pennsylvania in the same category as New York City is not logical when one considers the question of the ability of the Wilkes-Barre market to withstand the impact of additional distant signal competition. Again, I realize any figure is open to argument, but I do feel we could have arrived at a better division.

I also see the Commission's action as one which will result in a substantial number of requests for waivers from the cable television systems in the many different areas covered by these proposals. Such requests would, in my judgment, have been far fewer in number if local issues had remained for the local authorities' determination, and decisions could be handled far more expeditiously.

On a matter as complex as this one, I could write a lengthy document. I do not choose to belabor all the details. Although I agree with the motives, I disagree with many of the principles involved in our federal-state relationship and have stated some of these objections. Most of my other differences are matters of degree. In the final analysis, I disagree with such a substantial amount of this document that I have no alternative but to dissent.

APPENDIX A
THE MAJOR TELEVISION MARKETS
AND THEIR DESIGNATED COMMUNITIES
(numbers in parentheses indicate market ranking)

First Fifty Major Markets

Albany-Schenectady-Troy, N.Y. (34)
Atlanta, Ga. (18)
Baltimore, Md. (14)
Birmingham, Ala. (40)
Boston-Cambridge-Worcester, Mass. (6)
Buffalo, N.Y. (24)
Charleston-Huntington, W. Va. (36)
Charlotte, N.C. (42)
Chicago, Ill. (3)
Cincinnati, Ohio-Newport, Ky. (17)
Cleveland-Lorain-Akron, Ohio (8)
Columbus, Ohio (27)
Dallas-Fort Worth, Tex. (12)
Dayton-Kettering, Ohio (41)
Denver, Colo. (32)
Detroit, Mich. (5)
Greensboro-High Point-Winston-Salem, N.C. (47)
Greenville-Spartanburg-Anderson, S.C. - Asheville, N.C. (46)
Hartford-New Haven-New Britain-Waterbury, Conn. (19)
Houston, Tex. (15)
Indianapolis-Bloomington, Ind. (16)
Kalamazoo-Grand Rapids-Muskegon-Battle Creek, Mich. (37)
Kansas City, Mo. (22)
Los Angeles-San Bernardino-Corona-Fontana, Cal. (2)
Louisville, Ky. (38)
Memphis, Tenn. (26)
Miami, Fla. (21)
Milwaukee, Wis. (23)
Minneapolis-St. Paul, Minn. (13)
Nashville, Tenn. (30)
New Orleans, La. (31)
New York, N.Y.-Linden-Paterson, N.J. (1)
Norfolk-Newport News-Portsmouth-Hampton, Va. (44)
Oklahoma City, Okla. (39)
Philadelphia, Pa.-Burlington, N.J. (4)
Phoenix-Mesa, Ariz. (43)
Pittsburgh, Pa. (10)
Portland, Ore. (29)
Providence, R.I.-New Bedford, Mass. (33)
Sacramento-Stockton-Modesto, Cal. (25)
Salt Lake City, Utah (49)
San Antonio, Tex. (45)
San Francisco-Oakland-San Jose, Cal. (7)
Seattle-Tacoma, Wash. (20)
St. Louis, Mo. (11)
Syracuse, N.Y. (35)
Tampa-St. Petersburg, Fla. (28)
Washington, D. C. (9)
Wichita-Hutchinson, Kan. (48)
Wilkes Barre-Scranton, Pa. (50)

Second Fifty Major Markets

Albuquerque, N. Mex. (81)
Amarillo, Tex. (95)
Baton Rouge, La. (87)
Beaumont-Pt. Arthur, Tex. (88)
Cape Girardeau, Mo. - Paducah, Ky. - Harrisburg, Ill. (69)
Cedar Rapids-Waterloo, Iowa (66)
Chattanooga, Tenn. (78)
Columbia, S. C. (100)
Columbus, Ga. (94)
Davenport, Iowa-Rock Island-Moline, Ill. (61)
Des Moines-Ames, Iowa (67)
Duluth-Superior, Minn. (89)
Evansville, Ind. (86)
Fargo-Grand Forks-Valley City, N.D. (98)
Flint-Bay City-Saginaw, Mich. (62)
Fort Wayne-Roanoke, Ind. (82)
Fresno, Cal. (72)
Green Bay, Wis. (63)
Greenville-Washington-New Bern, N.C. (84)
Harrisburg-Lebanon-Lancaster-York, Pa. (58)
Huntsville-Decatur, Ala. (96)
Jackson, Miss. (77)
Jacksonville, Fla. (68)
Johnstown-Altoona, Pa. (74)
Knoxville, Tenn. (71)
Lansing-Onondaga, Mich. (92)
Lincoln-Hastings-Kearney, Neb. (91)
Little Rock, Ark. (51)
Madison, Wis. (93)
Mobile, Ala.-Pensacola, Fla. (60)
Monroe, La.-El Dorado, Ark. (99)
Omaha, Neb. (54)
Orlando-Daytona Beach, Fla. (56)
Peoria, Ill. (83)
Portland-Poland Spring, Me. (75)
Raleigh-Durham, N.C. (73)
Richmond-Petersburg, Va. (64)
Roanoke-Lynchburg, Va. (70)
Rochester, N.Y. (57)
Rockford-Freeport, Ill. (97)
San Diego, Cal. (52)
Sioux Falls-Mitchell, S.D. (85)
South Bend-Elkhart, Ind. (80)
Spokane, Wash. (76)
Springfield-Decatur-Champaign-Jacksonville, Ill. (65)
Texarkana, Tex.-Shreveport, La. (59)
Toledo, Ohio (53)
Tulsa, Okla. (55)
Wheeling, W. Va. - Steubenville, Ohio (90)
Youngstown, Ohio (79)

60

APPENDIX B
CABLE SIGNAL CARRIAGE IN MAJOR MARKETS

The attached chart depicts the number of signals that cable would be permitted to carry under our new rules in the designated cities of the top 100 television markets. For each market:

Column I shows stations authorized in the market
Column II lists signals meeting the viewing test
Column III shows distant signals permitted to be added
Column IV totals the above three columns and gives the total number of signals available under our rules in each of the designated cities

Additionally, the "Overlapping Market Comparison" in Column V shows how many signals from out of the market would be available under our existing rule which (other than in special footnote 69 situations) requires the carriage of all Grade B signals and compares it with the comparable number that will be available under our new viewing test, restricting carriage of out of market signals to those that are significantly viewed in the home market (the "Viewing Test" entries in Column V are the same as the entries in Column II). In all cases, noncommercial educational stations and foreign language stations are not included.

In calculating signals available under the viewing test (Columns II and V), audience survey information has been used which includes data on cable subscriber viewing in the home county. Since cable viewing of out of market signals may conceivably distort off-the-air viewing patterns, we have undertaken a special survey to be conducted by ARB of the counties where there is substantial cable penetration (more than 10%). Viewing test results in Columns II and V are, therefore, subject to adjustment when the survey results become available. In overlapping market situations where out of market network stations meet the significant viewing test, those stations would, of course, be required to be deleted when presenting programs which duplicate the programming of the home market network stations.

Explanatory notes:

* / Indicates certain markets that do not follow the usual pattern and where special treatment might, on further consideration, be appropriate. These include markets in which a great number of overlapping market signals meet the significant viewing test and markets below the top 50 in which an independent television station already exists.
a / Market includes a foreign station.
b / Indicates there is a non-operational station in the market with a construction permit less than 18 months old.

	I		II		III		IV	V	
MARKET	MARKET SIGNALS NET	IND	VIEWING TEST SIGNALS NET	IND	ADDITIONAL SIGNALS NET	IND	TOTAL	OVERLAPPING MARKET COMPARISON NEW VIEWING TEST vs EXISTING RULE Viewing Test	Out of Market Grade B's
1 New York, N.Y. Linden-Paterson, N.J.	3	5	-	-	-	2	10	-	5
2 Los Angeles-San Bernardino-Corona-Fontana, Calif.	3	8	-	-	-	2	13	-	-
3 Chicago, Ill.	3	4	-	-	-	2	9	-	-
4 Philadelphia, Pa.-Burlington, N.J.	3	3	-	-	-	2	8	-	3
5 a/ Detroit, Mich.	3	3	-	-	-	2	8	-	4
6 Boston-Cambridge-	3	3	-	-	-	2	8	-	4
Worcester, Mass.	3	3	-	-	-	2	8	-	7
7 San Francisco-Oakland-	4	4	-	-	-	2	10	-	5
San Jose, Calif.	4	4	-	-	-	2	10	-	5
8 Cleveland-Lorain-	4	2	-	-	-	2	8	-	-
Akron, Ohio	4	2	-	-	-	2	8	-	3
9 Washington, D.C.	3	3	-	-	-	2	8	-	4
10 Pittsburgh, Pa.	4	1	-	-	-	2	7	-	3

	I		II		III		IV	V	
MARKET	MARKET SIGNALS NET	IND	VIEWING TEST SIGNALS NET	IND	ADDITIONAL SIGNALS NET	IND	TOTAL	OVERLAPPING MARKET COMPARISON NEW VIEWING TEST vs EXISTING RULE Viewing Test	Out of Market Grade B's
11 St. Louis, Mo.	3	2	-	-	-	2	7	-	-
12 Dallas-Ft. Worth, Texas	3	2	-	-	-	2	7	-	-
13 Minneapolis-St. Paul, Minn.	3	1	-	-	-	2	6	-	-
14 Baltimore, Md.	3	2	-	1	-	2	8	1	6
15 Houston, Texas	3	1	-	-	-	2	6	-	-
16 Indianapolis-	3	2	-	-	-	2	7	-	-
Bloomington, Ind.	3	2	2	-	-	2	9	2	2
17 Cincinnati, Ohio- Newport, Ky.	3	1	-	-	-	2	6	-	5
18 Atlanta, Ga.	3	2	-	-	-	2	7	-	-
*									
19 Hartford-	6	1	-	-	-	2	9	-	3
New Haven-	4	1	2	3	-	2	12	5	4
New Britain-	6	1	-	-	-	2	9	-	2
Waterbury, Conn.	4	1	2	3	-	2	12	5	2
20 Seattle -	3	2	-	-	-	2	7	-	1
Tacoma, Wash.	3	2	-	-	-	2	7	-	-

	I		II		III		IV	V	
MARKET	MARKET SIGNALS NET	IND	VIEWING TEST SIGNALS NET	IND	ADDITIONAL SIGNALS NET	IND	TOTAL	OVERLAPPING MARKET COMPARISON NEW VIEWING TEST vs EXISTING RULE Viewing Test	Out of Market Grade B's
21 Miami, Florida	3	2	-	-	-	2	7		2
22 Kansas City, Mo.	3	1	-	-	-	2	6	-	1
23 Milwaukee, Wis.	3	1	-	-	-	2	6	-	1
24 Buffalo, N.Y.	3	1	-	1	-	2	7	1	2
25 Sacramento-	3	2	-	-	-	2	7	-	4
b/ Stockton-	3	2	-	1	-	2	8	1	8
Modesto, Calif.	3	2	-	1	-	2	8	1	6
26 Memphis, Tenn.	3	-	-	-	-	3	6	-	-
27 Columbus, Ohio	3	-	-	-	-	3	6	-	-
28 Tampa-St. Petersburg, Fla.	3	1	-	-	-	2	6	-	-
29 Portland, Oregon	3	1	-	-	-	2	6	-	1
30 Nashville, Tenn.	3	1	-	-	-	2	6	-	-

	I		II		III		IV	V	
MARKET	MARKET SIGNALS NET	IND	VIEWING TEST SIGNALS NET	IND	ADDITIONAL SIGNALS NET	IND	TOTAL	OVERLAPPING MARKET COMPARISON NEW VIEWING TEST vs EXISTING RULE Viewing Test	Out of Market Grade B's
31 New Orleans, Louisiana	3	1	-	-	-	2	6	-	2
32 Denver, Colorado	3	1	-	-	-	2	6	-	2
33* Providence, Rhode Island -	3	-	3	-	-	2	8	3	7
New Bedford, Massachusetts	3	-	3	1	-	2	9	4	6
34 Albany -	3	-	-	-	-	3	6	-	1
Schenectady -	3	-	-	-	-	3	6	-	1
Troy-N.Y.	3	-	-	-	-	3	6	-	-
35 Syracuse, N.Y.	3	-	-	-	-	3	6	-	3
36 Charleston -	3	-	-	-	-	3	6	-	1
Huntington, W.Va.	3	-	-	-	-	3	6	-	-
37 Kalamazoo -	4	1	-	-	-	2	7	-	6
Grand Rapids -	4	1	-	-	-	2	7	-	1
Muskegon -	4	1	-	-	-	2	7	-	-
Battle Creek, Mich.	5	1	1	1	-	2	10	2	3
38 Louisville, Ky.	3	1	-	-	-	2	6	-	1
39. Oklahoma City, Okla.	3	-	-	-	-	3	6	-	1
40 Birmingham, Ala.	3	-	-	-	-	3	6	-	-

	MARKET	I MARKET SIGNALS NET	IND	II VIEWING TEST SIGNALS NET	IND	III ADDITIONAL SIGNALS NET	IND	IV TOTALS	V OVERLAPPING MARKET COMPARISON NEW VIEWING TEST vs EXISTING RULE Viewing Test	Out of Market Grade B's
41	Dayton-Kettering, Ohio	3	1	3	-	-	2	9	3	4
42	Charlotte, N.C.	3	1	-	-	-	2	6	-	5
43	Phoenix-Mesa,Ariz.	3	2	-	-	-	2	7	-	-
44	Norfolk-	3	1	-	-	-	2	6	-	1
	Newport News-	3	1	-	-	-	2	6	-	3
	Portsmouth-	3	1	-	-	-	2	6	-	1
	Hampton, Va.	3	1	-	-	-	2	6	-	1
45	San Antonio, Tex.	3	1	-	-	-	2	6	-	-
46	Greenville-	5	1	-	-	-	2	8	-	-
	Spartanburg-	5	1	1	-	-	2	9	1	1
	Anderson, S.C.	5	1	-	-	-	2	8	-	-
	Asheville, N.C.	5	1	-	-	-	2	8	-	3
47	Greensboro-	3	-	-	-	-	3	6	-	4
	High Point-	3	-	2	1	-	3	9	3	3
	Winston-Salem,N.C.	3	-	-	-	-	3	6	-	5
48	Witchita-	3	-	-	-	-	3	6	-	-
	Hutchinson, Kan.	3	-	-	-	-	3	6	-	-
49	Salt Lake City,Utah	3	-	-	-	-	3	6	-	-
50	Wilkes Barre-	3	-	-	-	-	3	6	-	1
	Scranton, Pa.	3	-	-	-	-	3	6	-	2

	I		II		III		IV	V	
MARKET	MARKET SIGNALS NET	IND	VIEWING TEST SIGNALS NET	IND	ADDITIONAL SIGNALS NET	IND	TOTAL	OVERLAPPING MARKET COMPARISON NEW VIEWING TEST vs EXISTING RULE Viewing Test	Out of Market Grade B's
51 Little Rock, Ark.	3	-	-	-	-	2	5	-	-
52 [a/]* San Diego, Cal.	3	1	1	4	-	2	11	5	6
53 * Toledo, Ohio	3	-	3	2	-	2	10	5	5
54 Omaha, Neb.	3	-	-	-	-	2	5	-	1
55 Tulsa, Okla.	3	-	-	-	-	2	5	-	-
56 Orlando-Daytona Beach, Fla.	3	-	-	-	-	2	5	-	-
57 Rochester, N.Y.	3	-	-	-	-	2	5	-	4
58 Harrisburg -	5	-	-	1	-	2	8	1	1
Lebanon -	5	-	2	1	-	2	10	3	5
Lancaster -	5	-	3	2	-	2	12	5	9
York, Pa.	5	-	3	1	-	2	11	4	3
59 [b/]* Texarkana, Tex. -Shreveport, La.	3	1	-	-	-	2	6	-	-
60 Mobile, Ala. -	3	-	-	-	-	2	5	-	1
Pensacola, Fla.	3	-	-	-	-	2	5	-	-

	I		II		III		IV	V	
MARKET	MARKET SIGNALS NET	IND	VIEWING TEST SIGNALS NET	IND	ADDITIONAL SIGNALS NET	IND	TOTAL	OVERLAPPING MARKET COMPARISON NEW VIEWING TEST vs EXISTING RULE Viewing Test	Out of Market Grade B's
61 Davenport, Iowa-Rock Island-Moline, Ill.	3	-	-	-	-	2	5	-	-
62* Flint -	3	-	4	2	-	2	11	6	8
Bay City -	3	-	-	-	-	2	5	-	1
Saginaw, Mich.	3	-	-	-	-	2	5	-	1
63 Green Bay, Wis.	3	-	-		-	2	5	-	1
64 Richmond-	3	-	-	-	-	2	5	-	-
Petersburg, Va.	3	-	-	-	-	2	5	-	4
65* Springfield-Decatur-Champaign-	5	-	-	-	-	2	7	-	-
Jacksonville, Ill.	5	-	3	1	-	2	11	4	1
66 Cedar Rapids-	3	-	-	-	-	2	5	-	-
Waterloo,	3	-	-	-	-	2	5	-	1
Iowa									
67 Des Moines-Ames, Iowa	3	-	-	-	-	2	5	-	-
68 Jacksonville, Fla.	3	-	-	-	-	2	5	-	-

	I		II		III		IV	V	
MARKET	MARKET SIGNALS NET	IND	VIEWING TEST SIGNALS NET	IND	ADDITIONAL SIGNALS NET	IND	TOTAL	OVERLAPPING MARKET COMPARISON NEW VIEWING TEST vs EXISTING RULE Viewing Test	Out of Market Grade B's
69 *Cape Giradeau, Mo.-Paducah, Ky.-Harrisburg, Ill.	3	1	-	-	-	2	6	-	-
70 Roanoke-Lynchburg, Va.	4 4	- -	- -	- -	- -	2 2	6 6	- -	2 -
71 Knoxville, Tenn.	3	-	-	-	-	2	5	-	1
72 *Fresno, Calif.	3	1	-	-	-	2	6	-	-
73 *Raleigh-Durham, N.C.	2 2	1 1	- 1	- -	2 1	2 2	7 7	- 1	4 2
74 Johnstown-Altoona, Pa.	3 3	- -	2 1	- -	- -	2 2	7 6	2 1	4 -
75 Portland- Poland Springs, Me.	3	-	-	-	-	2	5	-	-
76 Spokane, Wash.	3	-	-	-	-	2	5	-	-
77 Jackson, Miss.	3	-	-	-	-	2	5	-	1
78 Chattanooga, Tenn.	3	-	-	-	-	2	5	-	2

MARKET	I MARKET SIGNALS NET	IND	II VIEWING TEST SIGNALS NET	IND	III ADDITIONAL SIGNALS NET	IND	IV TOTAL	V OVERLAPPING MARKET COMPARISON NEW VIEWING TEST vs EXISTING RULE Viewing Test	Out of Market Grade B's
79 Youngstown, Ohio	3	-	-	-	-	2	5	-	11
80 South Bend-Elkhart, Ind.	3 3	- -	- -	1 -	- -	2 2	6 5	1 -	- 1
81 Albuquerque, N. Mex.	3	-	-	-	-	2	5	-	-
82 Fort Wayne-Roanoke, Ind.	3	-	-	-	-	2	5	-	1
83 Peoria, Ill.	3	-	-	-	-	2	5	-	3
84 Greenville-Washington-New Berne, N.C.	3 3 3	- - -	- - -	- - -	- - -	2 2 2	5 5 5	- - -	2 - -
85 Sioux Falls-Mitchell, S.D.	3 3	- -	1 -	- -	- -	2 2	6 5	1 -	2 -
86 Evansville, Ind.	3	-	-	-	-	2	5	-	-
87 * Baton Rouge, La.	2	-	-	-	3	2	7	-	3
88 Beaumont-Port Arthur-Texas	3	-	-	-	-	2	5	-	1

MARKET	I MARKET SIGNALS NET	IND	II VIEWING TEST SIGNALS NET	IND	III ADDITIONAL SIGNALS NET	IND	IV TOTAL	V OVERLAPPING MARKET COMPARISON NEW VIEWING TEST vs EXISTING RULE Viewing Test	Out Of Market Grade B's
89 Duluth-Superior, Minn.	3	-	-	-	-	2	5	-	-
90 Wheeling, W. Va.- Steubenville, Ohio	2 2	- -	3 3	- 1	- -	2 2	7 8	3 4	4 4
91 b/* Lincoln- Hastings- Kearney, Neb.	3 3 3	1 1 1	3 - -	- - -	- - -	2 2 2	9 6 6	3 - -	4 - -
92 Lansing- Onondaga, Mich.	2 3	- -	3 3	- -	- -	2 2	7 8	3 3	8 9
93 Madison, Wis.	3	-	-	-	-	2	5	-	1
94 Columbus, Ga.	3	-	-	-	-	2	5	-	-
95 Amarillo. Texas	3	-	-	-	-	2	5	-	-
96 Huntsville- Decatur, Ala.	3 3	- -	- 2	- -	- -	2 2	5 7	- 2	- -
97 Rockford- Freeport, Ill.	3 3	- -	- -	- -	- -	2 2	5 5	- -	5 5

	I		II		III		IV		V	
MARKET	MARKET SIGNALS NET	IND	VIEWING TEST SIGNALS NET	IND	ADDITIONAL SIGNALS NET	IND	TOTAL		OVERLAPPING MARKET COMPARISON NEW VIEWING vs EXISTING RULE Viewing Test	Out of Market Grade B's
98 Fargo-Grand Forks-Valley City, N.D.	3	-	-	-	-	2	5		-	-
99* Monroe, La.-El Dorado, Ark.	2 2	1 1	- 4	- -	1 -	2 2	6 9		- 4	- 2
100 Columbia, S.C.	3	-	-	-	-	2	5		-	2